

-
HON'BLE SRI JUSTICE A. GOPAL REDDY

-
WRIT PETITION NO.20532 OF 2000

DATE:11.07.2007

Between:

APSRTC, Mushirabad, Hyderabad,
Rep. By its Managing Director & another

..... PETITIONERS

AND

State Transport Appellate tribunal, AP,
Hyderabad, rep. By its Presiding Officer.
& two others.

.....RESPONDENTS

-
-
-
-
-
-
-
-
-
-
-
-
-
-
-

HON'BLE SRI JUSTICE A. GOPAL REDDY

-
W.P. No.20532 OF 2000

-
ORDER:

Andhra Pradesh State Road Transport Corporation

('APSRTC') obtained a Rule from this Court calling upon the respondents to show cause as to why a writ in the nature of Certiorari under Article 226 of Constitution of India should not be issued after calling the records pertaining to the proceedings in AP No.410 of 1998, dated 12.7.2000 on the file of the first respondent, wherein the first respondent set aside the orders of the Regional Transport Authority-second respondent herein passed in item No.81 in RC.No.3201/A1/98, dated 26.5.1998 while directing the petitioners to issue pacca stage carriage permit to third respondent to ply as mufussil service on the route Yarakarayapuram to Kotipalli.

The application of the third respondent for grant of pacca stage carriage permit on the mufussil route Yarakarayapuram to Kotipalli via Palakonda and Bhasuru was considered by the second respondent in the light of the directions issued by this Court in W.P.No.13118 of 1998, dated 1.5.1998 and the same was rejected on the ground that as the actual distance from Palakonda to Yarakarayapuram is 8.7 k.ms., the overlapping is exceeded more than 8 k.ms on the notified route under G.O.Ms.No.1126/1987 dated 9.11.1987. Being aggrieved by the same, the third respondent preferred the appeal before the first respondent and by the impugned order the first respondent allowed the appeal stating that at the time of approval of the scheme under G.O.Ms.No.1126/87, dated 9.11.1987, the distance from Palakonda and Yarakarayapuram was notified as 7 k.ms. When once the Gazette notification was made about the said distance, unless and until the same is set aside or varied or modified, the distance mentioned in the gazette notification of the scheme, shall stand as valid. Observing so, the first respondent held that the second respondent has to grant permit according to the distance notified in the MVI's report.

Since it was not brought to the notice of the first respondent that there is any subsequent G.O. issued by the Government modifying the distance of 7 kms, from Palakonda to Yarakarayapuram as mentioned in G.O.Ms.No.1126/87, dated 9.11.1987, the first

respondent held that the second respondent has no option except to take into consideration of the distance of 7 kms., for the purpose of deciding whether it is within the permissible limits of overlapping. In that view of the matter, it was held that since the notified distance is 7 kms and the permissible overlapping is not more than 8 kms. under the said scheme, there cannot be any prohibition for grant of permit to the third respondent for the route applied by him and accordingly allowed the appeal directing the second respondent to grant pacca permit on the muffusil route applied by the third respondent.

Now, the learned counsel for the writ petitioners submits that since the actual route notified is more than 9.4 kms., the APSRTC moved the Government for necessary modifications with regard to the distance as notified in G.O.Ms.No.1126/98, dated 9.11.1987 and the Government accepting the plea of the APSRTC, issued draft scheme and the same was published in the Gazette.

In view of the publication of the draft scheme by the Government, it is always open for the third respondent to file his objections to the notified scheme to be modified if any. Having regard to the fact that the Government published the draft scheme modifying the G.O.Ms.No.1126/87, dated 9.11.1987, the impugned order passed by the first respondent is set aside and the matter is remitted to the Regional Transport Authority, Srikakulam, Srikakulam District to decide the issue afresh in the light of the draft scheme published by the Government. Meanwhile, it is always open for the State Government to consider the objections of the third respondent and finalise the same in accordance with law.

The writ petition is accordingly disposed of. No costs.

A. GOPAL REDDY, J

11th JULY, 2007.
Tsr